

RAILROADS OF NEW YORK RONY



Executive Director

Scott Wigger

Member Railroads

B & H Rail Corp.

Batten Kill Railroad, Inc.

Buffalo & Pittsburgh Railroad, Inc.

Buffalo Southern Railroad, Inc.

CSX Transportation, Inc.

Canadian National Railway Co.

Canadian Pacific-D & H Railway

Central New York Railroad, Inc.

Clarendon & Pittsford Railroad Co.

Depew Lancaster & Western RR

Falls Road Railroad Co. Inc.

Finger Lakes Railway Corp.

Genesee & Mohawk Valley RR Co.

Genesee & Wyoming Railroad

Livonia, Avon & Lakeville Railroad

Lowville & Beaver River RR Co.

Massena Terminal RR

Middletown & New Jersey Railroad LLC

Mohawk, Adirondack & Northern RR

New York & Atlantic Railway Co.

New York & Lake Erie Railroad

New York New Jersey Rail, LLC

New York & Ogdensburg Railway Co.

NY Susquehanna & Western Railway

Norfolk Southern Railway Co.

Ontario Central Railroad Corp.

Ontario Midland Railroad Corp.

Owego & Harford Railway

Providence & Worcester Railroad

Rochester & Southern Railroad

SMS Rail Lines of New York

Saratoga & North Creek Railway

Somerset Railroad Corporation

South Buffalo Railway Co.

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RailWorks Track Services, Inc.

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Plummer & Associates, LLC

MEMORANDUM OF OPPOSITION

BILL: S3882 (Ball)

SUBJECT: REVIEW AND ANALYSIS OF SECURITY MEASURES
IMPLEMENTED AT NYS RAILROAD FACILITIES

DATE: March 5, 2013

CONTACTS: SCOTT WIGGER, EXECUTIVE DIRECTOR (518-463-2603)
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Railroads of New York (RONY) opposes the above-referenced legislation that would direct the NYS Division of Homeland Security and Emergency Services to conduct a review and analysis of measures being taken by all rail facilities to protect the security of related critical infrastructure. RONY is a not-for-profit statewide association representing four Class I Railroads (CSX, Canadian National, Canadian Pacific and Norfolk Southern) and 33 short line and regional freight railroads serving 60 of New York State's 62 counties. RONY members employ over 3,700 individuals and move over 70 million tons of freight annually within NYS alone.

This bill would require all railroad operators to provide access to all security audits and reports to the NYS Division of Homeland Security and Emergency Services and to prepare a vulnerability assessment of the security measures taken to prevent and respond to the unauthorized release of hazardous substances stored within. These activities are currently regulated on the Federal level by both the Transportation Security Administration (TSA) (as part of the U.S. Department of Homeland Security) and the Federal Railroad Administration (FRA).

The TSA currently employs a Surface Transportation Security Inspection program that deploys inspectors to perform surveys and conduct inspections of freight rail operations throughout the nation. The efforts of these inspectors are focused on the areas of highest risk in the freight rail industry. The inspection program is responsible for verifying implementation of voluntary security measures, conducting vulnerability assessments and conducting regulatory compliance inspections. In conducting the vulnerability assessments, the individual railroads work in conjunction with the TSA inspectors in developing them. The inspectors also act as local liaisons to rail carriers and other government agencies for emergency planning and response purposes.

In addition, the TSA also operates a Corporate Security Review (CSR) Program to evaluate the progress of the freight rail industry in the implementation of their security programs. Since the inception of their Freight Rail Division in 2002, the TSA has worked closely with railroad carriers to determine the level of rail security throughout the industry. In coordination with freight rail stakeholders, the TSA has issued guidelines in the form of security action items and recommended protective

measures to enhance freight rail security, particularly as it applies to the risk associated with the transportation by rail of toxic inhalation hazardous (TIH) materials. The CSR Program not only assesses how a carrier's security plan addresses the transportation of hazardous materials, but also reviews and assesses the effectiveness of plans in the following areas:

- Communication of Security Plans
- Audits of Security Plans
- Cyber Security
- Protection of Critical Assets
- Security Awareness Training
- Personnel Security
- Threat Assessment

Furthermore, the TSA also runs a Transportation Sector Network Management (TSNM) Freight Rail program that assesses the vulnerability of TIH material tank cars to the weapon threats that would likely be used in a terrorist attack. It calls for explosive modeling and actual field weapons testing, and includes:

- Assisting in the development of rail security vulnerability reduction measures with the individual railroads;
- Estimating the release rate from the breached tank car for emergency response and dispersion modeling purposes; and,
- Developing and incorporating new technologies that can provide rail tank cars with protection from attacks.

For essential national security reasons, these rail security plans are not made widely available in order to ensure that such plans do not end up in the wrong hands. Any information that the TSA feels is necessary to provide to state Homeland Security agencies, they provide them with directly. Our member railroads feel it is inappropriate to provide this information directly to any entities outside of the TSA in order to maintain a proper level of confidentiality and to ensure the safety of the state's rail facilities.

For these reasons, we respectfully request your opposition to this legislation.